

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet.

PLAINTIFFS

Can't Live Without It, LLC d/b/a S'well Bottle

DEFENDANTS

ETS Express, Inc.

ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Levine Sullivan Koch & Schulz, LLP

321 West 44th Street, Suite 1000

New York, NY 10036 (212) 850-6100

ATTORNEYS (IF KNOWN)

CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE)
(DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

This action is for trade dress infringement, false designation of origin, and unfair competition in violation of the Lanham Act, 15 U.S.C. § 1051, et seq., and for related causes of action under New York state law.

Has this action, case, or proceeding, or one essentially the same been previously filed in SDNY at any time? No Yes Judge Previously Assigned

If yes, was this case Vol. Invol. Dismissed. No Yes If yes, give date _____ & Case No. _____

IS THIS AN INTERNATIONAL ARBITRATION CASE?

No Yes

(PLACE AN [X] IN ONE BOX ONLY)

NATURE OF SUIT

		TORTS	ACTIONS UNDER STATUTES			
CONTRACT	PERSONAL INJURY	PERSONAL INJURY	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
[] 110 INSURANCE	[] 310 AIRPLANE	[] 367 HEALTHCARE/PHARMACEUTICAL PERSONAL	[] 625 DRUG RELATED	[] 422 APPEAL	[] 375 FALSE CLAIMS	
[] 120 MARINE	[] 315 AIRPLANE PRODUCT	INJURY/PRODUCT LIABILITY	SEIZURE OF PROPERTY	28 USC 158	[] 376 QUI TAM	
[] 130 MILLER ACT	LIABILITY	[] 365 PERSONAL INJURY	21 USC 881	[] 423 WITHDRAWAL	[] 400 STATE	
[] 140 NEGOTIABLE INSTRUMENT	[] 320 ASSAULT, LIBEL & SLANDER	PRODUCT LIABILITY	[] 1690 OTHER	28 USC 157	REAPPORTIONMENT	
[] 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT	[] 330 FEDERAL EMPLOYERS' LIABILITY	INJURY PRODUCT LIABILITY		PROPERTY RIGHTS	[] 410 ANTITRUST	
[] 151 MEDICARE ACT	[] 340 MARINE	PERSONAL PROPERTY			[] 430 BANKS & BANKING	
[] 152 RECOVERY OF DEFECTUALD STUDENT LOANS (EXCL VETERANS)	[] 345 MARINE PRODUCT LIABILITY	[] 370 OTHER FRAUD			[] 450 COMMERCE	
	[] 350 MOTOR VEHICLE	[] 371 TRUTH IN LENDING			[] 460 DEPORTATION	
	[] 355 MOTOR VEHICLE PRODUCT LIABILITY			SOCIAL SECURITY	[] 470 RACKETEER INFLUENCED & CORRUPT ORGANIZATION ACT (RICO)	
[] 153 RECOVERY OF OVERPAYMENT OF VETERAN'S BENEFITS	[] 360 OTHER PERSONAL INJURY	[] 380 OTHER PERSONAL PROPERTY DAMAGE	LABOR	[] 820 COPYRIGHTS	[] 480 CONSUMER CREDIT	
	[] 362 PERSONAL INJURY - MED MALPRACTICE	[] 385 PROPERTY DAMAGE	STANDARDS ACT	[] 830 PATENT	[] 490 CABLE/SATELLITE TV	
[] 160 STOCKHOLDERS SUITS		PRODUCT LIABILITY	[] 710 FAIR LABOR STANDARDS ACT	[] 840 TRADEMARK		
[] 190 OTHER CONTRACT		PRISONER PETITIONS	[] 720 LABOR/MGMT RELATIONS			
[] 195 CONTRACT PRODUCT LIABILITY		[] 463 ALIEN DETAINEE	[] 740 RAILWAY LABOR ACT	FEDERAL TAX SUITS	[] 890 OTHER STATUTORY ACTIONS	
[] 196 FRANCHISE	ACTIONS UNDER STATUTES	[] 510 MOTIONS TO VACATE SENTENCE	[] 751 FAMILY MEDICAL LEAVE ACT (FMLA)	[] 870 TAXES (U.S. Plaintiff or Defendant)	[] 891 AGRICULTURAL ACTS	
	CIVIL RIGHTS	28 USC 2255	[] 790 OTHER LABOR LITIGATION	[] 871 IRS-THIRD PARTY		
		[] 530 HABEAS CORPUS	[] 791 EMPL RET INC SECURITY ACT (ERISA)	26 USC 7609		
		[] 535 DEATH PENALTY				
		[] 540 MANDAMUS & OTHER				
REAL PROPERTY	[] 440 OTHER CIVIL RIGHTS (Non-Prisoner)					
[] 210 LAND CONDEMNATION	[] 441 VOTING		IMMIGRATION			
	[] 442 EMPLOYMENT	PRISONER CIVIL RIGHTS	[] 462 NATURALIZATION			
[] 220 FORECLOSURE	[] 443 HOUSING/ACCOMMODATIONS	[] 550 CIVIL RIGHTS	APPLICATION			
[] 230 RENT LEASE & EJECTION	[] 445 AMERICANS WITH DISABILITIES - EMPLOYMENT	[] 555 PRISON CONDITION	[] 465 OTHER IMMIGRATION ACTIONS			
[] 240 TORTS TO LAND	[] 446 AMERICANS WITH DISABILITIES - OTHER	[] 560 CIVIL DETAINEE CONDITIONS OF CONFINEMENT				
[] 245 TORT PRODUCT LIABILITY						
[] 290 ALL OTHER REAL PROPERTY	[] 448 EDUCATION					

Check if demanded in complaint:

CHECK IF THIS IS A CLASS ACTION
UNDER F.R.C.P. 23

DO YOU CLAIM THIS CASE IS RELATED TO A CIVIL CASE NOW PENDING IN S.D.N.Y.
AS DEFINED BY LOCAL RULE FOR DIVISION OF BUSINESS 13?
IF SO, STATE:

DEMAND \$ _____ OTHER _____ JUDGE _____ DOCKET NUMBER _____

Check YES only if demanded in complaint
JURY DEMAND: YES NO

NOTE: You must also submit at the time of filing the Statement of Relatedness form (Form IH-32).

(PLACE AN X IN ONE BOX ONLY)

<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from (Specify District)	<input type="checkbox"/> 6 Multidistrict Litigation (Transferred)	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judge
<input type="checkbox"/> a. all parties represented						
<input type="checkbox"/> b. At least one party is pro se.			<input type="checkbox"/> 8 Multidistrict Litigation (Direct File)			

(PLACE AN X IN ONE BOX ONLY)

1 U.S. PLAINTIFF 2 U.S. DEFENDANT 3 FEDERAL QUESTION 4 DIVERSITY
(U.S. NOT A PARTY)

IF DIVERSITY, INDICATE CITIZENSHIP BELOW.

CITIZENSHIP OF PRINCIPAL PARTIES (FOR DIVERSITY CASES ONLY)

(Place an [X] in one box for Plaintiff and one box for Defendant)

CITIZEN OF THIS STATE	PTF [] 1	DEF [] 1	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY	PTF DEF [] 3 [] 3	INCORPORATED and PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE	PTF [] 5	DEF [] 5
CITIZEN OF ANOTHER STATE	[] 2	[] 2	INCORPORATED or PRINCIPAL PLACE OF BUSINESS IN THIS STATE	[] 4 [] 4	FOREIGN NATION	[] 6	[] 6

PLAINTIFF(S) ADDRESS(ES) AND COUNTY(IES)

DEFENDANT(S) ADDRESS(ES) AND COUNTY(IES)

DEFENDANT(S) ADDRESS UNKNOWN

REPRESENTATION IS HEREBY MADE THAT, AT THIS TIME, I HAVE BEEN UNABLE, WITH REASONABLE DILIGENCE, TO ASCERTAIN THE RESIDENCE ADDRESSES OF THE FOLLOWING DEFENDANTS:

COURTHOUSE ASSIGNMENT

I hereby certify that this case should be assigned to the courthouse indicated below pursuant to Local Rule for Division of Business 18, 20 or 21.
 DO NOT check either box if this is a PRISONER PETITION/PRISONER CIVIL RIGHTS COMPLAINT.

Check one: THIS ACTION SHOULD BE ASSIGNED TO: WHITE PLAINS MANHATTAN

DATE 5/10/2017

SIGNATURE OF ATTORNEY OF RECORD

ADMITTED TO PRACTICE IN THIS DISTRICT

[] NO

[X] YES (DATE ADMITTED Mo. May Yr. 1989)
Attorney Bar Code # RP-5866

RECEIPT #

Magistrate Judge is to be designated by the Clerk of the Court.

Magistrate Judge _____ is so Designated.

Ruby J. Krajick, Clerk of Court by _____ Deputy Clerk, DATED _____.

UNITED STATES DISTRICT COURT (NEW YORK SOUTHERN)